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PRIVATIZATION OF PRISON CONSTRUCTION IN NEW YORK

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PRIVATIZATION OF PRISON CONSTRUCTION IN NEW YORK

WEDNESDAY, DECEMBER 5, 1984

CONGRESS OF THE UNITED STATES,
JOINT ECONOMIC COMMITTEE,
Washington, DC.

The committee met, pursuant to notice, at 10:30 a.m., in room C, Legislative Building, Albany, NY, Hon. Alfonse M. D'Amato (member of the committee) presiding.

Present: Senator D'Amato.

Also present: Morgan Hardiman, legislative assistant to Senator D'Amato.

OPENING STATEMENT OF SENATOR D'AMATO, PRESIDING

Senator D'AMATO. First, I would like to describe the current state of overcrowding in our Nation's prisons and jails. Some may say, "Who cares about overcrowding? Let the criminals suffer!" There is no love lost between this Senator and convicted felons. However, judges have forced citizens and policymakers to consider the problem.

In 1983 alone, 21,420 individuals were prematurely released from prison and put back onto our streets simply because of overcrowding. Tens of thousands more were released from local jails, also prematurely.

In November 1983, a Federal judge ordered 613 prisoners released from the New York City jail at Riker's Island. Since then two-thirds of these individuals have either committed new crimes or have skipped bail.

The result is that the good work of local law enforcement officers goes for naught. More importantly, our citizens are further terrorized.

Prison overcrowding is a national problem. This is not a problem only for New York. Today, 30 States have their entire prison systems, or individual jails within their systems, under court order to relieve overcrowding. Many of these States are represented by members of this committee.

So, it is not a matter of wanting to make the lives of prisoners more comfortable. The issue is this: How do we keep hardened criminals off our streets?

The Attorney General has reported a record 7-percent drop in the serious crime rate for 1983. He attributed the decline, in part, to putting more criminals behind bars.

By increasing the number of prison inmates from 230,000 in 1974 to 440,000 today, we have begun to cut into crime. This process must be continued. Crime cannot be fought without adequate prison space.

For many judges, however, the issue is a matter of civil rights. That is, a grossly overcrowded prison or jail represents cruel and unusual punishment. Inmates are put back on the streets, not because they have been rehabilitated, not because they have completed their sentences, not because they are no longer a threat to society, but merely because there is insufficient space to house them.

I do not want to get into a debate over what is cruel and unusual punishment or whether judges are acting in the best interests of the public. But I do want to force debate on a problem that many would rather skirt: The role of the Federal Government in relieving prison overcrowding.

Should the Federal Government become involved in relieving prison overcrowding? Absolutely yes! Every recent administration, Republican and Democratic, has recognized the importance of fighting crime. Having a place to put convicted criminals is a prerequisite to making a dent in crime.

There is a Federal responsibility to relieve prison overcrowding because most crime is related to trafficking in, and the use of, drugs, and the Federal Government has a responsibility to keep drugs out of this country.

There is a Federal responsibility because overcrowding is also due in large part to the Federal Government's failure to keep out thousands of criminals released from Castro's prisons, and illegal alien felons from other nations.

Should the Federal Government shoulder the whole burden in building or rehabilitating State and local prisons and jails? Absolutely not!

As I stated before, the problem is national in scope. With a $170 billion Federal budget deficit, a system of cost sharing between the various levels of Government must be devised. But we cannot just pass the buck to State and local governments.

I believe that the use of sale/leasebacks by Government entities is a very sound approach. It would entail the extension of tax incentives by the Federal Government to private corporations through State and local government entities.

In exchange for this, private entities would lease prisons, jails, and detention centers back to State and local governments at a discount. In this way, the Federal Government would bear some, but not all, and not even most, of the costs for providing new prison beds.

My bill would deem the sale/leaseback of a prison, jail, or detention center between a private entity and State or local government to be a "service contract" for tax purposes. This would allow the private sector to become more involved in the construction of prisons, jails, and detention centers.

Why is this important? The process of private sector construction of prisons has already begun. Based on experience, private corporations can build prisons for 75 percent of what it would cost State and local governments. These are savings that accrue to State and local taxpayers.

Private sector involvement in prison construction must be further encouraged. My bill would expedite this process. This would be done by exempting State and local prison, jail, and detention center construction and rehabilitation from the sale/leaseback restrictions of the recently passed tax bill.

According to the Congressional Budget Office, this approach would result in roughly $1.5 billion worth of new prison space, or over 50,000 new prison beds, being built over the next 5 years.

CBO also estimates that my bill would cost the Federal Government an average of only $65.5 million per year in lost revenues. But, for this small price, the Municipal Finance Officers Association has estimated that the use of sale/leasebacks would save an average of 22 percent, as compared to the use of general obligation bonds.

To limit the revenue loss to the Federal Government, and to allow a proper review of the success of this program, my bill would sunset in 1989.

The use of sale/leasebacks would not be preferable for all local entities. Those with the highest credit ratings would probably not take advantage of sale/leasebacks.

However, those Government entities with weak or nonexistent credit ratings could use the sale/leaseback technique.

Currently, local entities with weak credit ratings must either use tax revenues or forgo prison construction. In both cases, the public pays a great price.

My bill would unleash private capital to build much needed prison space. The bill would allow State and local governments to use Federal tax incentives to build 50,000 new beds. This can save State and local taxpayers up to 22 percent from the cost of traditional financing.

At this point, I would like to call our first panelist. I have a very distinguished gentleman, Frederick J. Scullin, Jr., U.S. attorney for the northern district of New York.

STATEMENT OF FREDERICK J. SCULLIN, JR., U.S. ATTORNEY, NORTHERN DISTRICT OF NEW YORK STATE, U.S. DEPARTMENT OF JUSTICE

Mr. SCULLIN. I thank you, Senator. I thank you for the opportunity to appear here in front of this committee. As you are aware, I appear as the representative of the U.S. Department of Justice, but more specifically as the U.S. attorney for the northern district of New York State.

While I do not have a prepared statement, I do have some observations I would like to make with regard to the overcrowding in our prison system today. I have been a prosecutor both on the State and Federal level for approximately 16 years. I have always been conscious for the needs in this criminal justice system for more and better prisons.

Recently, within the past 2 years, there has been a great emphasis on the part of the Department of Justice in the area of criminal law enforcement. We have initiated new and innovative programs such as the Organized Crime and Drug Enforcement Task Force.

This has resulted in my office here in the northern district of New York State in the increasing filings of criminal complaints and criminal indictments. My filings indicate that in the past 2 years our criminal filings for serious crimes are up 30 to 35 percent.

The program such as the Organized Crime and Drug Enforcement Task Force and the Law Enforcement Coordination Committees have enabled us to make bigger and better cases. We are getting to the more violent, the more serious criminal and getting convictions on larger cases.

Now, this, of course, results in longer prison terms for these offenders. I have some figures which pertain to the Federal penitentiary here in the northern district of New York, which is Raybrook, which indicates that the prison population since that institution opened has increased substantially.

The rated capacity of Raybrook is 500, 500 inmates. The present population is over 800. This is 60 percent above capacity.

Now, we have another Federal correctional facility which is in Otisville. That is just on the border of the northern district. That rated capacity is 390. They now have 605 inmates; so that is 56 percent above the rated capacity.

This results in a number of problems for the Federal correctional officers, which includes obviously housing, feeding, sewage, water, and discipline.

On a national level, I am informed that since 1977, 1978, when the inmate population was 24,000, we have now gone up to 31 percent above that to the present population of 32,610.

Recently, Congress passed and the President signed into law the comprehensive crime control bill. This is effective October 12, 1984.

In the first 4 weeks that this law was in effect, because of the various provisions within that law that had to do with the Bail Reform Act, bail pending appeal and so forth, the inmate populations at Raybrook and at some of the other Federal institutions have gone up substantially. Here in Raybrook I have a figure that Federal prisoners—this is just not at Raybrook, but this is for the 4 weeks that Federal prisoners went up 400 because of those new changes.

Senator D'AMATO. What you are saying is that is a result of the comprehensive crime control bill?

Mr. SCULLIN. Yes; that is correct, Senator. This is only within the first few weeks that it was enacted.

Senator D'AMATO. What type of percentage would that be, that type of increase you are talking about?

Mr. SCULLIN. I don't have a percentage. This figure I obtained from the Bureau of Prisons which is attributable to the new Comprehensive Crime Control Act.

Senator D'AMATO. Let me ask you: Do you see a corresponding increase throughout the entire region? Have you had an opportunity to speak to your colleagues in the southern district and in the western district in regards to what the new crime bill is doing, that is, the impact on the State and local levels?

Mr. SCULLIN. I have had occasion to speak to the other U.S. attorneys. As a matter of fact, the executive office for the U.S. attorneys is doing a survey right now trying to determine what impact

this new Comprehensive Crime Control Act will have upon U.S. attorney's offices and on our needs and drains upon the resources that we have; and also what impact it will have upon the Bureau of Prisons.

However, it is a little early yet to determine that, but at first blush it does appear that there will be some increase, some increase as far as the northern district of New York is concerned. We have already applied for a number of pretrial holdings of prisoners. Before we did not have that capability of doing so.

Obviously, this is going to have some effect. To what degree, it is too early to tell at this point in time.

Senator D'AMATO. Let me ask you this: What jails, detention centers, or prisons could you recommend to this committee as models of efficiency in reasonable construction costs and in operating costs?

Mr. SCULLIN. What particular jails?

Senator D'AMATO. What jails, detention centers, or prisons could you recommend to this committee that you might consider to be models of efficiency and reasonable construction costs, have you had that opportunity?

Mr. SCULLIN. Well, my personal awareness of the prison system is somewhat limited. I am familiar with the present penitentiary or correctional facility at Raybrook and also Otisville.

Of course, Commissioner Coughlin is here from the New York State Department of Correctional Services to give you more insight on the New York State facilities.

I believe that Raybrook and Otisville are good, solid prisons, correctional institutions. However, the problem is overcrowding. They have doubled or more than doubled what their capacity is supposed to be.

Now, that has caused an insurmountable number of problems not only for us, but for our office as well. We have a number of cases that arise out of these prisons. They are Federal prisons and we have jurisdiction. It has created a drain on our resources, which would be used otherwise for crimes committed on the outside.

Senator D'AMATO. Let me ask you: There are those that think that the demographics would indicate that there would be less need and less cost for prisons to be constructed. In your opinion given the adoption of the new comprehensive crime control bill, do you share that opinion?

Mr. SCULLIN. No; I do not. I think that there will be a greater need. In my opinion in the past, overcrowding of prisons has resulted in the early release of prisoners, which might cause some problems on the streets.

We find ourselves prosecuting people who have been already convicted of crimes and who otherwise have been serving sentences but are out on the streets committing other crimes.

Senator D'AMATO. You share the view with others that have testified. One statistic that should shock people and disturb people, shock their consciences, is the devastating consequences of overcrowded facilities. This is one Senator who was not pleading on behalf of the prisoners and those that have been convicted, but rather much more concerned about the rights of society and indi-

viduals when career criminals or other vicious criminals are released early into our society simply because there is overcrowding.

In 1983 alone, 21,420 individuals were prematurely released, released early from prison and put back on the streets simply because of overcrowding. That is 21,000 around the Nation.

In addition, 10,000 additional criminals were released from local jails prematurely again for the same circumstances as a result of their being overcrowded.

What you are saying now, Mr. Scullin, is as a result of the new legislation, which gives the courts the ability to hold people without bail, dangerous criminals in pretrial detention, and which also shifts the burden of proofs for certain cases, that you feel that, if anything, the prison population, contrary to what some people say, will continue to grow?

Mr. SCULLIN. I really do, Senator.

Senator D'AMATO. What about the concept of career criminals, moving in on career criminals? There have been some that said statistically 22 or 23 percent of the so-called career criminals, recidivists, commit anywhere from 60 to 80 percent of the felony crimes. Do you share that, Mr. Scullin?

Mr. SCULLIN. Our experience in the Federal system insofar as the northern district of New York is concerned, and I believe throughout the other U.S. attorney's offices as well, would support that conclusion. We do find ourselves prosecuting people who are recidivists.

Under certain statutes now, we are working and we are pursuing this type of an individual and getting longer prison terms as a result. We have a career criminal statute, which we are applying mostly to these drug trafficking cases that we are working on today. This has resulted in some quick sentences. We will see a lot more of that in the future.

Senator D'AMATO. My point is that, now that we are seeing stiffer sentences, and activity directed to the repeat criminal and career criminal, the prison population will continue, at least on the Federal level, to increase?

Mr. SCULLIN. I believe that it has to, yes.

Senator D'AMATO. The reason I say that is because I think it is terribly unfair of people to say that because the demographics are changing the crime rate is going to go down. The Attorney General reported a 7-percent drop in serious crime rates for 1983, which was attributed in part to putting more criminals behind bars and by the increased number of prison inmates, which went up from 230,000 in 1974 to 440,000 last year. Do you think that there is some validity in that conclusion that more prisoners being behind bars means that the crime rate goes down?

Mr. SCULLIN. I believe that is true. I think, again, we are concentrating on the serious type of crime and we are sending people away for longer periods of time when they are convicted.

I believe this does have an impact on the crime rate because they are being kept in prison and that the influence that otherwise the active criminal or criminal organization might have is not there. In other words, the organization is being taken away, it is affected by taking key people away from the organization.

Senator D'AMATO. As a U.S. attorney would you advocate the construction of many facilities or more facilities wherever possible at the cheapest cost available?

Mr. SCULLIN. I certainly would. In my opinion it's been an area in the criminal justice system that's been long neglected.

Senator D'AMATO. Are there any other observations that you would like to make at this time?

Mr. SCULLIN. I have not at this time. Thank you again for the opportunity to appear here.

Senator D'AMATO. Let me just say before we move on to our second panel, I am deeply appreciative of your appearance not only today, but of your efforts in coordinating the criminal justice system with State, local, and Federal officials at all levels within those 3 years.

I must say that I think that the citizens of northern New York can be very proud of a U.S. attorney that has brought a degree of professionalism to this important position second to none. I am deeply appreciative of you taking your time out not only for this hearing today, but for your efforts in the criminal justice field.

Mr. SCULLIN. Thank you, sir.

Senator D'AMATO. Thank you. We will ask for our second panel to come forward, Commissioner Coughlin, Thomas A. Coughlin III. I will get the commissioner in trouble now by saying that he is doing a fabulous job under the most difficult circumstances.

We also have Peter R. Kehoe, the executive director, New York Sheriffs' Association. Commissioner Coughlin.

Commissioner COUGHLIN. Senator, thank you very much for inviting me.

Senator D'AMATO. Good to see you, Commissioner Coughlin.

STATEMENT OF THOMAS A. COUGHLIN III, COMMISSIONER, NEW YORK STATE DEPARTMENT OF CORRECTIONAL SERVICES, ACCOMPANIED BY PETER R. KEHOE, EXECUTIVE DIRECTOR, NEW YORK SHERIFFS' ASSOCIATION

Commissioner COUGHLIN. I would like to put this prison construction thing in some kind of a perspective. As you know, as I said on a number of occasions, Senator, your legislative efforts in this area have been extremely helpful, maybe not for New York State at this point in time—I emphasize "at this point in time," but for the rest of the States who have exactly the same problem that we have.

In 1979 when I became commissioner of corrections there were approximately 19,000 individuals in State prisons. This morning there are 34,463 or so people in State prisons. That is an increase of roughly 15,000 people in a very short 5-year period of time.

Senator D'AMATO. 1979 to today?

Commissioner COUGHLIN. 1979 to today, yes, Senator, a 15,000 increase.

Senator D'AMATO. We have almost seen a doubling.

Commissioner COUGHLIN. Almost a doubling of prison population in a 5-year period. There are reasons for it, Senator. The reasons are very obvious.

In the late 1970's, 1976, 1977, 1978, the legislature here in New York State decided to emphasize the policy of really two things:

One, going after the violent felon and locking up those individuals who hurt people; and

Two, going after the career criminal.

Senator D'AMATO. What is your feeling on that?

Commissioner COUGHLIN. I think that approach is a very sound, absolutely correct approach. We have seen the effects of that in New York State that are dramatic.

In 1978, Senator, the majority, yes, the majority, 53 or 54 percent of the individuals in State prisons were doing time for nonviolent crimes, nonviolent crimes.

Today, Senator, 75 percent of that 34,000 are now doing time for violent crimes. The balance, approximately 23 or 24 percent of the balance are career criminals.

Senator D'AMATO. You mean they are professionals that are nonviolent but they are the career professional criminals.

Commissioner COUGHLIN. Well, they are the people who affect the quality of life in the State, the professional career burglar, the professional career thief, the car thief who is involved in major organizations of stealing cars.

Senator D'AMATO. Commissioner, could we talk about something that is rather important. There are some who say there should be an alternative, that is, an alternative to incarceration.

If we take your statistics that 75 percent are violent criminals who present a danger to society, right; and then say the largest part of the remaining balance, 25 percent are professional career criminals, then what we are really saying that there is only a small percent that would fall into the area of alternative sentencing modes, et cetera?

Commissioner COUGHLIN. No. What we are saying is that those individuals who commit a crime in New York State now get alternative sentencing the first time and maybe even the second time, Senator. However, the 34,000 people in prison today have had three, four, five bites out of the apple.

Senator D'AMATO. There is no alternative?

Commissioner COUGHLIN. There is no alternative. They have had the alternative. If you look at the people that come across my desk, Senator, this is not their first brush with the criminal justice system and probably not their second and third. Many of them have had alternative sentencing, four, five, six times.

Finally, the judges say that is it, that is it. All of these people who say that the population of the State prison could be reduced by alternative sentencing, they just don't know what they are talking about, Senator.

Senator D'AMATO. I agree with you. However, I wanted to get Tom Coughlin to say that. I think that it is important to get it on the record that alternative sentencing, particularly for nonviolent criminals, et cetera, is obviously something that the State correctional people and others are interested in doing and seek and do implement. So that it is not the case that of the 34,000 inmates, a large percentage of them who would qualify for some alternative sentencing mode because it is not applicable.

Commissioner COUGHLIN. Absolutely correct, Senator, absolutely correct. So, this emphasis that we started in the late 1970's is coming to fruition.

We have had a bond issue for prison construction back in 1980, 1981.

Senator D'AMATO. I remember.

Commissioner COUGHLIN. I went around the State talking about it then. I had support from a lot of people. However, there was a group out there saying that incarceration rates and criminal rates absolutely do not correlate. There is no relationship with the number of people in prison and the crime rate.

I said at that point in time—at that time we had statistics going back to the late 1950's that showed as the population of the prison went up, a short time thereafter the crime rate went down. I said that if we put people in prison and we get the right people in prison that we are going to see a reduction in crime.

We started this in 1978, 1979, 1980. All of a sudden in 1981, 1982, you see a decrease in violent crime and of all crime rates in the State; so, therefore, it does have an effect.

I think that it becomes pennywise and pound foolish not to continue this emphasis on violent criminals. Someone who sticks up a store and virtually will kill you should be in jail whether it is the first time he's done it or the first time that he's got caught doing it.

We have started this process in New York State. We have made a commitment up front that we were going to run prison systems that were institutional. I am very proud to say, and sometimes I get in trouble saying this, that we are the only major prison system in the country today that is not under Federal court mandate for noncompliance.

However, it's been extremely expensive. The people of the State of New York have been willing to put up the money to run that kind of a system.

We are in the last stages right now of a 8,600 bed expansion which will wind up giving us somewhere around 38,000, 39,000 cells in late 1986. All of that prison construction is financed right now by the legislature. We have used the——

Senator D'AMATO. UDC?

Commissioner COUGHLIN. Yes, the UDC approach to it. It is the only way, the only way that the State can do this. They cannot finance this type of prison construction because it just can't be done. There are too many priorities.

Your proposal I think has a great deal of efficacy even for the State of New York. There is something going on here. We have one more major prison that is being planned right now and, that is, the 1,000 bed maximum prison in New York City.

Senator D'AMATO. What is the approximate cost per bed that you see per unit there?

Commissioner COUGHLIN. In the New York City maximum security facility, it will be about $100,000 a bed. You have got to be careful of this because of the requirement to keep these people secure.

You don't build a prison that you are going to put Black Liberation Army terrorists in or multiple murderers in and not assure the people in the State of New York that they are going to stay in prison once they are there.

So, it is an expensive proposition to build maximum security prisons. We don't in this State by the way build maximum security prisons for everybody. Most of our construction, Senator, has been in the medium security area, gentlemen and ladies who have less than 3 years to go on the sentence.

I think that a lot of States make the mistake in overbuilding maximum security space. Out of the 8,600 beds that we are building right now, 2,000 will be maximum security beds. The balance will be appropriate security level beds.

There is something on the horizon in New York State. I have supported very vocally some type of privatization construction of new prisons in New York City. I still think it is the best way to go. It is the most inexpensive and the quickest.

From the selfish perspective, I want the 1,000 beds. From a general taxpayer perspective, I want it as inexpensive as possible. I think that privatization in terms of turnkey on that maximum security facility in New York City will be very advantageous to us.

You were talking to Fred Scullin about demographics and reduction in population. I think that we make a major mistake. If you go back 5 or 6 years ago, there was a lot of talk about the prison population going down because of the change in demographics. Let me say that the demographics that that prediction was based upon were census data based on white middle class individuals.

The white middle class is going down, the population is going down, but the numbers of people who we have in our system now who are black and Hispanic, immigrants, aliens, those birth rates are not going down, Senator.

We talked here a year or so ago about the Mariel Cubans. I would like to say that that hearing that you had on the Mariels and their impact on the prison system has opened many, many doors to us.

At the time I said that we knew of about 70 Mariels that are in the State prison system. You got INS to get involved in there. We have been working with INS for about a year and a half. That number of 70 Mariel Cubans has now jumped to over 300 identified Mariels in the New York State system.

Senator D'AMATO. What would the approximate number of aliens, illegal aliens be that now find themselves in the New York State prison system?

I know at one time it's been about 800. Has that moved up at all?

Commissioner COUGHLIN. We have identified through cooperation with INS, 500 foreign-born individuals in the system today. INS and my staff are going through their alien status. The group we concentrated first of all on were the Mariel Cubans that jumped from 70 identified Mariels to over 300.

We are going to find a large number of illegals in that 2,500 number as we keep working with INS. It is going along quite well though.

Let me just add one more thing, Senator. The Federal system is changing its sentencing mechanism and doing away with parole. New York is about to do that, too.

We have had a sentencing commission working for the past year. We expect a report shortly to the legislature. The preliminary indi-

cations from that report at this time indicate that the sentence lengths are going to increase the prison population.

I have made statements in the press that everybody has to be very, very careful of increasing sentencing and not providing increased resources for both the courts, the police, and the corrections. The low end of the scale that I am talking about on sentencing would increase our population to about 43,000. The high end—this is just doing a number of projections—the high end could be as high as 70,000.

We have an example in California where they have gone from about the same size we are to 43,000, 44,000 a day and projecting 55,000 by the end of 1989, beginning of 1990. There is going to be a continuing need for capital construction money for prisons.

I think that the States cannot afford to put it up front so that I look with a great deal of faith in some kind of arrangement the way that your bill presents it, Senator.

Senator D'AMATO. Let me ask you this, Commissioner: I appreciate your candor in this and look forward to what impact the new State legislation will have. In terms of the prison population, given the construction program for the additional 8,600 beds, which will be completed in the latter part of 1986, won't you still get about 100 percent occupancy?

Commissioner COUGHLIN. Yes. When we are finished with the construction program, we will be at 100 percent occupancy. There are no current plans to bring it down below 100 percent.

Senator D'AMATO. Commissioner, what do we do then in terms of moving forward? Will that be the end or are you in the process of making recommendations now to continue to meet the growing needs?

Commissioner COUGHLIN. There is a clear recognition, Senator, that based upon the work of the sentencing commission that there will be a corrections piece in it. There is a requirement in the statute that the sentencing commission assess the impact on prison populations and that new sentencing guidelines be made a part of the whole project.

My fervent concern is that we have enough lead time. If the thing takes effect on January 1, 1986, then we have to look at January 1985 for construction that is going to be done in mid-1986 to handle this increase.

Senator D'AMATO. Let's talk about construction, if I might, just for a moment. You have obviously become one of the leading experts in the Nation given your extensive experience in this program.

Commissioner, what are some of the causes of construction delays that could be eliminated and dealt with as a result of having the private sector come in and lease prison space and facilities to the municipalities?

Commissioner COUGHLIN. Now, I will really get myself in trouble. In my opinion the major stumbling block in terms of time is the State requirement for four major subcontractors: General construction, heating and ventilation, electrical, and plumbing. We have to get four separate contractors for that.

People are always stumbling over themselves. They are independent contractors. The plumbers get in the way of the electri-

cians. The electricians get in the way of the heating guy. The general construction guy tries to work around everybody else.

I think that a bidding process where one person, that is, a developer, for example, would bid a job and would be responsible for controlling all of the subs under that job will not have an adverse impact on unionized labor, but will allow us as the State to deal with one person instead of dealing with four or five persons.

Senator, that in my opinion is the biggest stumbling block that I see which the developer would address. In other words, that coordination is not there from five or six different contractors. The electrician is a different contractor. The guy building the building is a different contractor. The guy doing the electricity is a different contractor.

I want to talk to one man and say here is *x* number of dollars. I want a 500-bed medium security prison. I want it in 9 months.

If something goes wrong, I want to hold you accountable. If something goes wrong, everybody points to everyone else now. As a result, in some cases the municipalities pay huge extras because of the suits. That's been the history of municipality construction and it is the current history of prison construction.

I know these are difficult times in Washington. We would be bringing on line $1½ billion of prison construction and prison cells will not be built. They will be building prison space. Here is a way to reduce that cost in time and effort.

It seems to me that that is necessary and the adequacy of prison space is the key ingredient of the total package of the criminal justice system. I think that a $60 million hit on the Federal Treasury given the change that that would make on the quality of life for every citizen in this State or country is a reasonable hit.

Senator D'AMATO. I agree with you, Commissioner. Let me ask you if you would maybe take a role in contacting some of your colleagues on a nationwide basis to see what we could do. We have had one hearing in Washington to see what kind of support we can get from the State correctional people from around this Nation to support it.

We are one of the few States that are not under a Federal order. There are 30 States that are under order now that say that you must release "*x*" number of prisoners when you get a certain number.

That is an incredible thing. My colleagues in Washington, many of them, are just not aware of that.

Commissioner COUGHLIN. Well, the issue of privatization whether it is construction or privatization in the prison system is a major issue with the American Correctional Association which represents parole, probation, corrections across the board. We had our national conference in San Antonio last year and privatization was an issue there.

I think at our next conference which will be in August of 1985 in New York City that privatization is one of the major features. We have a major program on privatization. Maybe we will get you to come and talk to us.

Senator D'AMATO. I would be glad to do that. In the meantime, I will look forward to working with you not only as we have in the last 4 years, but particularly if we could use your expertise and

your knowledge to help us on the national scale to continue to build a very broad base of support during the next congressional session. It is going to take that kind of effort to get all of the correctional people throughout the Nation together to get the necessary 51 votes in the Senate.

Commissioner COUGHLIN. I will be more than happy to do it, Senator.

Senator D'AMATO. Thank you, Commissioner.

Sheriff Harvey Starr is here. The sheriff is the president of the New York State Association of Sheriffs. Sheriff, how are you?

STATEMENT OF HARVEY STARR, SHERIFF, AND PRESIDENT, NEW YORK STATE ASSOCIATION OF SHERIFFS

Sheriff STARR. Fine, Senator. I don't have a prepared statement. I am kind of filling in.

What the commissioner has just said about the expansion of jails on the State level, we at the county feel first, because they have to go through us before they can get into the State system. Right now on the statewide basis there is a definite lack of space for inmates on the county level.

In certain areas of the State, the more urban counties, it is reaching you might say drastic proportions. Some counties are already under Federal court orders to stay at a cap and others are probably only a matter of time before the court stepped in and say you will get back down to your rated capacity.

Senator D'AMATO. Well, Sheriff, as you know, I have had the opportunity to appear before the State Sheriff's Association and make the presentation in calling for the privatization bill that will have a great impact particularly for the county and the city levels, which oftentimes do not have the rating, the bonding capacity, to undertake these construction projects without subjecting their citizenry to a huge cost, a cost which I might add in many cases they are opposed to.

I would be hopeful that you would be able to press the association for an endorsement of this concept. I know that we were talking to your executive director. I would be deeply appreciative.

We would be doing the people of the State of New York a great service to get the kind of construction and rehabilitation efforts under way that our county and city facilities need in the cheapest and in the most expeditious manner possible.

Sheriff STARR. Our legislative committee will be meeting next week, the 11th. I believe that will be on the agenda.

Senator D'AMATO. Wonderful.

Sheriff STARR. That is one of the items.

Senator D'AMATO. Thank you very much, Sheriff. I appreciate the support that you individually and your association collectively have given me and my staff in this undertaking. Thank you for taking your time to be with us today.

Sheriff STARR. Thank you, Senator.

Senator D'AMATO. Before we get to our third panel, we have Edie Mesik, the director of the Columbia County (NY) Development and Planning Department.

STATEMENT OF EDIE MESIK, DIRECTOR, COLUMBIA COUNTY (NY) DEVELOPMENT AND PLANNING DEPARTMENT

Ms. MESIK. Thank you, Senator, I am representing Columbia County here today. I am the director of the Columbia County Development and Planning Department.

As such, I work very closely with county government on the countywide issues and also with private developers on issues that affect private developers in our county. Columbia County is facing a crisis in our jail situation.

Columbia County is a rural county. We have a small county jail that is now antiquated. We are currently rated for 52 prisoners in the Columbia County jail. However, our physical setup is such that we cannot meet the New York State corrections staffing requirements in an economically feasible way. The different classification requirements by New York State corrections really have a drastic impact on our ability to house the prisoners that come in, as was stated earlier, that start at the county level before they move into the State system.

The New York State Corrections Department has cited Columbia County for inadequate staffing. We are currently boarding out a great number of prisoners because of the demand that we have. Six more went out yesterday to be farmed out into other county jails. This is costing Columbia County some $75,000 to $100,000 a year to farm out these prisoners to other facilities.

Columbia County's population is growing rapidly. We have had a 15½-percent increase in the last decade. We expect that to continue at that rate. We have a crisis.

What are we going to do? We need a modern facility in Columbia County. We need one that has the appropriate size, the appropriate setup so we can cut our costs in staffing because of the physical setup of the jail.

While Columbia County is in excellent fiscal shape, we have tremendous demands on our bonding capacity. We have a community college. We have a nursing home that we are paying off bonds.

We have plans for a senior citizen center. We have plans for a solid waste to energy facility. We have the crisis. We have the problem.

We have private developers in Columbia County, people who will be speaking to you in your third panel who have approached the county on the concept of private financing for the jail, private development for the jail itself. That is a very attractive option to Columbia County for reasons that you already stated.

We wanted to pursue this with our private contractors. We understand this legislation that is proposed will have a real impact on the cost of Columbia County's taxpayers, which will be approximately 20 percent less in annual cost as a result of this legislation that you propose.

Columbia County thinks this is an excellent idea. We hope that you will be successful in bringing this through.

Senator D'AMATO. Let me ask you: What do you anticipate the cost of the new facility will be?

Ms. MESIK. Between $4 and $5 million.

Senator D'AMATO. Let me ask you: What kind of budget impact would that have on your community to finance that with traditional methods?

Ms. MESIK. The traditional method itself is questionable. Can we do it? That is the first question.

Senator D'AMATO. Why would that be questionable?

Ms. MESIK. County obligations, bonds, general obligation bonds, and the demands already on our bonding capacity.

Senator D'AMATO. Are you required to submit, let's say, the floating of a $4½ million bond issue? Does that need the approval of the county voters?

Ms. MESIK. I am not certain whether that is a mandated referendum. I am sorry, but I don't know. However, I am already aware in that we have had our discussions that the public has said we have so much need in the county and our taxes are at a certain level; so how can we afford to fund for prisoners. This is a very real reaction.

Senator D'AMATO. I think that it really comes down to how we make it possible for those in local and State government to undertake this important obligation of meeting the standard of the law to minimize the cost impact to the taxpayers.

I have received correspondence from constituents and when they talk about prison construction they say don't build it. Shoot them. Cut off their legs. Send them to Devil's Island.

Obviously, we understand that that is not a reasonable alternative. I think that a great deal of frustration takes place as a result of the high cost to the taxpayers, and, therefore, they are reluctant to undertake that.

Ms. MESIK. I concur.

Senator D'AMATO. Let me thank you very much for coming in and for the endorsement of your county.

Ms. MESIK. Thank you very much for the opportunity. I have also learned quite a lot today in terms of the issues to bring these back to the county government and to the public at large.

Senator D'AMATO. Let me suggest that you have a Congressman, you have another Senator that you contact him and urge him to support this legislative initiative because we need all of the help that we can get. Thank you very much.

The third panel, Paul Silver, architect, Gruzen Partnership.

Greg Arcuri, treasurer, Geyglin Corp.

John D. Erroll, Ph.D., president, and Robert Ferro, vice president, Erroll Systems Co., Inc.

Gordon Wise, architect, Knappe & Johnson.

I understand that someone wants to show us a slide presentation. Who wants to put that on?

Mr. SILVER. I do, Senator.

Senator D'AMATO. You are Mr. Silver?

STATEMENT OF PAUL SILVER, ARCHITECT, GRUZEN PARTNERSHIP

Mr. SILVER. I am Mr. Silver. If I might just make a few introductory comments that will put a perspective on what I am going to show. I have chosen some slides to show you what I believe will

demonstrate what are the important problems in the design of the correctional prison facilities today that are major contributing factors to the high cost of the facilities.

Some of these are basic, traditional concepts of construction that are locked into the building type. Because of the character of the way that these buildings are built, there is little or no incentive to introduce new technologies or new ideas, because there is no profit motive on either the part of the user or the builders, so to speak, to consider an alternative.

There is in fact as a result of the interest in privatization, many ideas that are being discussed or considered of alternative ways of achieving the requirements of the correctional environment without resorting to the traditional technologies. The traditional technologies, by the way, have been horrendously expensive.

When the first prison was built in the United States in 1814, it was the most expensive building ever built in the United States at that time. Traditionally, this has been an extraordinarily high priced building. It is largely due to the fact that there has been little or no incentive to consider anything new in the form of alternatives to the construction technologies that have traditionally existed.

Maybe we can run through some of these slides. In the process, I can show you some of the ideas and alternatives that are possible in the situation where there is in fact an interest in finding methods for achieving both security and economy.

The traditional prison has always been a massive structure in achieving security largely through the use of massive devices like walls and complicated fencing. Nowadays we see a lot of electronic devices that are extraordinarily expensive to maintain and install.

The classic prison facility, the plan even in its own configuration was an enormously expensive thing. Here is a typical cell block grouping. You will see these are basically large buildings.

When you look at the interior, it consists mostly of empty space. Most of the building construction is dedicated to circulation. Little or nothing is done in the plan to try to achieve a minimum amount of waste space.

The very concept of these older buildings is a concept which achieves its security by a multiple of layers. Many of them never demonstrated as necessary, but locked in by tradition and not by proven experience.

In the interior of these older buildings you see massive vaulting spaces. If you count the amount of square feet that is actually usable space in this environment as distinguished to the circulation area, you have 15 percent of the volume. Compare that to a home in which you have somewhere about 85 percent usable space versus 15 percent nonusable.

Circulation, walls, mechanical space, most of the building is dedicated to circulation. The cost of building these older buildings is horrendous.

A lot of the things that are carried across in some of the newer construction are borrowed from the older buildings. The use of bars, for example, may give the illusion or appearance of security. One of those rolling doors costs as much as a small car.

So that if you are talking about a system which has a dependency on those type of technologies, sliding, expensive steel hardware, gratings, you are talking about a building where for a 500-bed building of sliding doors, you are probably spending a good $2 million just for the doors and not necessarily achieving any higher degree of security.

More contemporary options, things we have done in recent years achieve a security by the way that the buildings are configured and by the use of more traditional materials. We have tried and encouraged correctional people to look at the problem from a performance standard, performance not tradition, thereby trying to encourage the use of more traditional materials, stay away from exotic and expensive construction systems, steel plate, heavy, massive wall systems that are not any more necessary for security.

This happens to be the interior of the highest security facility in the State of Minnesota for the 400 worst offenders in the system. Here is a setting which is much more spartan and traditional in its materials and not the specialty materials that we associate with correctional settings.

Also, the way that the plan can be configured, we can eliminate a lot of those corridors and connecting spaces and eliminate the waste area.

Now, this is a medium security prison in Nebraska, which is a series of connected buildings. The buildings are literally connected to one another and form security. Instead of having elaborate wall systems and elaborate fences, the buildings themselves provide the wall and also the way that the housing is laid out.

Here is a typical floor plan for the facility that is built in Camden and Newark for the State of New Jersey. The amount of space which is dedicated to unusuable circulation space is almost nil. All of the space is used for some function, therefore, we reduce the size of the building dramatically. With the reduction of the size of the building, you have a tremendous cost saving.

In construction there are three basic ways one can save money in the cost of the building. One, finding a more efficient use of space, in other words, reduce the amount of area; and then finding a more efficient material, materials that are less expensive and that can do the same job; and then, third, construct it in such a manner that one gets the maximum efficiency and performance, that is, introduce technologies that are laborsaving and timesaving.

Now, this is a typical example of such a laborsaving and timesaving system. They tilt up concrete panel systems. This is in the State of Arizona. This is literally a cardboard and concrete building in effect.

Now, it is made so that the concrete pieces, which are formed and tilted up so that the whole building goes up in a few weeks from prefabricated panels. In other words, it is a speedy system that allows the introduction of technologies heretofore not considered appropriate in this building type.

This gives you an idea of the type of things that you can end up with using such a system. You can produce a prison of a scale and character that allows you to manage it all without having wasted space, the connected corridors and the massive amount of unusable area that is associated with traditional facilities.

Now, I showed this slide because I wanted to emphasize the other problem, that is, the opposite end of the spectrum. The opposite end of the spectrum is an attempt to introduce new technologies. One can go to an extreme and introduce such sophisticated devices that no single man or group of men can use effectively.

Now, this is a control room with TV monitors and all sorts of electronic devices that was replaced by the department after it was in for 1½ years. It could not be physically managed by any group of people.

One has to also develop solutions as to the level of sophistication in the building type, the type of moneys that are available to run such a system and the level of personnel that one has available. You cannot have something that is so exotic and sophisticated which requires something short of an operating genius to function securely and safely.

Now, one of the things that we have recognized that the traditional or conventional project schedule, which consists of a design phase, a bid phase, a construction phase and implementation phase simply has been a slow and costly process. It has been a slow and costly process because everything is done incrementally, in other words, each step of the process requires a very, very serious reconsideration of the previous decisions. No decision is ever a decision until the building is finally built and you are stuck with the decisions that you accommodated yourself to. The process is, therefore, a process which is extremely slow.

The cost consequences are tremendous because from the contracting industry's point of view, they look upon the product as something which they are faced with having to build with a great deal of difficulty, working with complicated bureaucracies, working with complicated payment problems, having to work in an environment with many contractors who are not necessarily qualified or compentent as they are at odds with each other; so, consequently, they are slowing down the process.

Now, a more contemporary approach and one that we find dramatically improves both time and cost savings is what we call a GMP or guaranteed maximum price or guaranteed maximum cost, which allows us in the early stage of the project whenever we introduce a developer we have a design building team. They will guarantee the delivery date and guarantee the cost.

In other words, they will say that this project will cost you x number of dollars. This project will be done on such and such a date. If we don't finish on such and such date, then we have a penalty. If we finish it earlier, there is a bonus in it for us.

If we finish it within the number of dollars that we specify, that is fine. If we go over, we have to in effect absorb the loss. If we go over, there may even be a benefit in the form of splitting the savings.

Therefore, there is an incentive on the part of everybody, both the owner and the building team, to keep the project as low cost as possible because any savings will allow additional funds to enhance the character and quality of what they are getting as additional moneys for additional features. That basically is it. That basically is the slide.

Senator D'AMATO. Let me ask you: As a result of the private construction, that is, without having the benefit of the accelerated depreciation laws and the credit, et cetera, that really should be part of the process, can you give us an estimate with respect to some of the projects that you have undertaken, on the cost savings attendant with that?

Mr. SILVER. I would say that you are talking about cost savings without the incentive, tax incentive and everything of about 15 to 20 percent because of the privatization approach. Any obvious additional increments of savings will be tremendously encouraging.

In fact, I think that it would bring into the field people who right now are reluctant to enter the field because their attitude is even that percentage is not enough of an incentive for them to break away from their current areas of interest and enter this.

Senator D'AMATO. Do you think that the cost savings could go beyond that?

Mr. SILVER. I think you are talking about a possible cost savings beyond the 15 to 20 percent. I will tell you precisely why. If you go into a technique like the guaranteed maximum price technique with a leaseback, a sales leaseback arrangement, you have a situation where the entrepreneur is in a position to approach the solution of the problem by saying I will look for inventive ways to find a resolution to this problem because I want it to cost the least amount as possible because that will give me the maximum return on my investment in this particular enterprise.

In other words, I want to look for new techniques so that I can build this building more competitively because there are other people that are going to be offering suggestions that they want to get this job also. You will stimulate a kind of competition that didn't exist before. You can introduce new concepts of construction, new concepts of design, because the user will approach the solution of the problem from a performance point of view.

They will say that I want a prison that does the following. I want a 500-bed facility that is maximum security. This is what I need in terms of performance by maximum security.

Senator D'AMATO. Let me ask you what areas have you undertaken in this kind of construction?

Mr. SILVER. New Jersey and Michigan, too. We have discussed quite a few projects with other jurisdictions. At this point it hasn't come to fruition widely because many of the entrepreneurs are waiting for something to happen.

Senator D'AMATO. To make it more economical?

Mr. Silver. To make it more economical, yes. I think that they are at a peaking point where the incentive in the form of a tax benefit would be that pressure that would put a large number of people over the top and into this area as an area of significant interest.

Senator D'AMATO. Have you had an opportunity to discuss this concept with any of the officials in the State of New York, any of the jurisdictions within the State of New York?

Mr. SILVER. Yes, I have had some opportunity to discuss it briefly with some officials in the State of New York. In fact, I am in the process right now of writing a short memorandum for the State to describe how this system has worked in other jurisdictions or could

work here in the hope of encouraging them to look into this seriously.

Senator D'AMATO. Are you aware of any impediments with respect to State and municipal laws that might preclude the privatization of construction?

Mr. SILVER. Well, there have been discussions about the WIX law being a possible impediment, a discussion about the competitive bidding laws. In all of the situations that we have been involved in, all of the situations which we are currently developing, those problems can be solved.

First of all, in the privatization project which we are doing right now in Detroit, MI, which is a courthouse lockup facility, that facility is in fact being built precisely the way that I described through the guaranteed maximum price by the developer. That design builder finance team is guaranteeing the price.

Now, to insure the competitive bidding requirements, all the subcontractors are bid publicly. There is in fact a series of qualification requirements for background, experience, and capability to be sure that the people who are bidding this job can do it properly.

The contractor in effect manages the whole process. However, he has in effect no control over the money. He merely approves the vouchers that come to him and then allows payment to the subcontractor. This avoids the problem of the subcontractor's reaction to the contractor that you are using our money, in other words, we are becoming bankers for you, which is one of the underlying motives and concerns that created the WIX law.

The general contractor who is paid by an owner for work completed doesn't have necessarily an immediate payment to the subcontractor. He keeps the money for 30 days so that in effect makes the subcontractors bankers. They don't like that for very good reasons.

The system that we have set up, that is not an incentive because the contractor, the builder in this particular case does not earn anything by holding the money. He can't invest it. He can't use it.

In other words, it is sitting in the bank under the control of the developer, the entrepreneur that puts the whole thing together or the finance group who in this particular case is Shearson, Lehman and American Express. They merely pay out the vouchers. That eliminates the one problem.

The competitive bidding problem is solved because we in fact have a public open bidding where any qualified bidder who meets the requirements and experience and performance capability can participate.

Senator D'AMATO. I would imagine that in the State of New York you would have to operate under a system similar to that which you just described.

Mr. SILVER. Yes, I think that it would be feasible. You would be in effect insuring that you would get high quality contractors and it would not threaten the union situation at all because those are the people, the firms that have a history of performance and a history and background that is needed to demonstrate that they can do this type of a job.

Senator D'AMATO. What about temporary facilities? I do believe that we are going to hit a crisis of incredible proportions as it re-

lates to prisons and overcrowding, that in spite of the work of the State and the commissioner which they have undertaken, that it will go far beyond that which we have experienced before. Have you developed any plans for temporary prisons?

Mr. SILVER. Well, I think that the real issue is the meaning of the word "temporary." There is always an element of self-implied destruction after a period of time, that is, it gets converted to something else because it is not suitable for a prison anymore.

Unfortunately, buildings are not like mechanical things where you can design something and if a certain part fails, that is the end of it. Buildings are basically such enormous, individual things designed for specific purposes and locations that to achieve that kind of a temporariness in a correctional facility is almost impossible. You end up with not temporary buildings, but portable buildings. That is, theoretically, you can take the building down and move it somewhere else at some point.

To produce a truly temporary building that has a limited lifespan at a significant cost savings is an unrealistic objective. By the time that you achieve the level of security and design that you need for this kind of an environment, you will have produced effectively all of the characteristics of a permanent building.

You might as well produce a permanent building and not pay a premium for the so-called temporary character. A lot of so-called temporary buildings that I have seen actually are more expensive than some of the alternatives, which could and should be considered for permanent buildings in order to achieve the temporariness or at least the illusion of temporariness.

Senator D'AMATO. Let me thank you so much for your submission and for the interest. I would ask that you would keep us informed as you submit your proposals to the State and local officials. Our staff would be appreciative.

If we can be of any help just call on us. Thank you very much.

Mr. SILVER. Thank you, Senator.

Senator D'AMATO. Mr. Greg Arcuri.

Mr. ARCURI. Yes, Senator.

Senator D'AMATO. How about John Erroll?

Mr. ERROLL. We have a slide presentation.

Senator D'AMATO. How about Gordon Wise?

Mr. ERROLL. He is with us, Senator. He is our architect.

Senator D'AMATO. In other words, you are all one?

Mr. ERROLL. Yes.

Senator D'AMATO. Mr. Arcuri, you are separate and distinct?

STATEMENT OF GREG ARCURI, TREASURER, GEYGLIN CORP.

Mr. ARCURI. Yes, Senator. I have a brief statement. As a developer, the legislation would enable us to have lower lease payments than under current legislation. We are currently working with Columbia County in the preliminary stages of their jail. Right now we estimate that we can lease a completed facility to them for $500,000.

Senator D'AMATO. You said $500,000?

Mr. ARCURI. Annually.

Senator D'AMATO. How many units would that provide?

Mr. ARCURI. Well, right now they have a range of what they are looking for as far as beds. This is why it is all preliminary. They have a preliminary study as far as the production cost and the units and things like that.

Also, we are paying an estimated $50,000 in real estate taxes since we own the property, own the project. They would have a nominal fee and in the 25th year an option to purchase it. They would have an option to purchase it in 25 years.

In our estimate what the county savings would be would be approximately $120,000 a year annual payment.

Senator D'AMATO. So, you have a savings of about 25 percent per annum based upon the private construction and then the lease to the county of that facility or of the sale back at the end of the 25th year period of time?

Mr. ARCURI. Yes; that is correct. That is because of the tax credits, the depreciation, which we are doing now with historical buildings. We are doing a lot with them.

This is just the same type of project. We haven't done a jail, but the rehab and the investment tax credits, that is where we are coming from. That is our incentive here.

Senator D'AMATO. Of course, that is predicated upon this legislation passing?

Mr. ARCURI. Yes; that is correct.

Senator D'AMATO. Without this legislation passing have you taken an analysis as to what the savings may or may not be if you were to do this under the current law?

Mr. ARCURI. Well, under the current law there certainly wouldn't be any savings. It would be a debt service. It wouldn't justify the amount of capital, therefore, it would be all debt service which obviously raises the lease payment.

Senator D'AMATO. In your opinion it would not be sufficient inducement to bring about the necessary capital to carry on this project under the present tax law?

Mr. ARCURI. Yes; that is correct.

Senator D'AMATO. But you would be interested in undertaking this project which you put forth if the legislation is enacted?

Mr. ARCURI. Yes; certainly.

Senator D'AMATO. OK. Good. If we can be of any assistance or if you think that we should have any special insights as you develop or as you proceed from your preliminary plan and study further, please let us know. I thank you so very much for coming in and sharing your thoughts with us.

Mr. ARCURI. Thank you, Senator.

Senator D'AMATO. Now, we have a team: John D. Erroll, Ph.D., president; Robert Ferro, vice president; and Gordon Wise, architect, Knappe & Johnson.

For the record would you just give us your name?

Mr. ERROLL. My is John D. Erroll, president of Erroll Systems Co., Inc.

Mr. FERRO. My name is Robert Ferro, vice president, Erroll Systems, Inc.

Mr. WISE. My name is Gordon Wise. I am an architect for Knappe & Johnson.

STATEMENT OF JOHN D. ERROLL, PH.D., PRESIDENT, ERROLL SYSTEMS CO., INC., SUFFOLK COUNTY, NY, ACCOMPANIED BY ROBERT FERRO, VICE PRESIDENT; AND GORDON WISE, ARCHITECT, KNAPPE & JOHNSON

Mr. ERROLL. We are from Suffolk County, Long Island. I am a clinical psychologist by background. I spent 3 years as a clinical psychologist in the maximum security facility in Suffolk County. I have an insider's view of this experience.

Robert Ferro is an engineer who has extensive experience in construction. Gordon Wise is a well-known architect from a well-known architectural firm in Garden City.

What we have is what we think is a definitive answer to the problems that you have been presenting. We are somewhat in agreement with Mr. Silver's observations, but I think he left out a very important point of cost savings of the Erroll Systems. That is something that he could have mentioned if he had known about us.

Now, the essentials of our construction is that we feel that we can build a maximum, a medium, or a minimum security facility for 70 percent of the cost of conventional construction. That $100,000 per bed price that was quoted for Riker's Island, we feel we could do for a maximum of $70,000 per bed.

This construction is flexible. It is a permanent construction but it is temporary and it could be moved or it could be reused in any way that the person who owns it wishes.

We would welcome the kind of things that you are doing in terms of changing the tax law and the lease provisions. This is something that we feel would be a tremendous incentive for us. We would find it very helpful.

Senator D'AMATO. Are you suggesting that you would be able to undertake this at a savings of about 30 percent without any change in the tax law?

Mr. ERROLL. Without any change at all as is right now, yes. We guarantee a delivery date. We guarantee a set price.

We can do it in less than 50 percent of the conventional construction time.

Senator D'AMATO. You can save 50 percent on construction time?

Mr. ERROLL. Right.

Senator D'AMATO. All right, let's see it or hear it. Why don't we come down here. You are going to narrate this?

Mr. ERROLL. I will talk my way through it.

Senator D'AMATO. OK.

Mr. ERROLL. This is the basic structure of Erroll Systems. What it is, it is in fact a container that you would see as a shipping container, any freight shippings that are riding on a truck. The basic frame has a very high structural integrity that can be used for construction purposes.

The bottom frame shows how cells might be introduced into this type of a container. This happens to be a 40-foot container. We would in fact be using 20-foot containers because it allows us greater flexibility.

Here is what the actual cell would look like. We have constructed a prototype like this that looks exactly like this in fact. It is made with total stainless steel interior construction, the walls, the

toilets, the floors, the bunks. This gives a much higher level of cleanliness than normal masonry construction.

What you see also in the middle there is the utility panel that feeds both of the cells. Here we have put together a couple of different floor plans. These are not necessarily the most efficient.

These are just ideas of the ways in which the cells can be constructed. They can be constructed to fit most designs.

What you have, you have a control room in the middle where the corrections officer has an observation of various folks. This over here can be used for a DWI holding cell or a small holding prison.

Now, here is a larger more conventional approach where you have firewalls and a 36-cell construction where the cells are on the interior of the building. This is one style of building. It shows that it is adaptable to what looks like conventional construction in classic prison systems.

This is the method for moving them. This is the method for moving them into the factor where they are made. This is the way in which they are constructed onsite.

Now, nothing more is necessary in terms of moving these things than a forklift. Once they have been assembled, they car be disassembled in exactly the same way.

Here is an exterior. This is an artist's rendering of one possible version. This is not from any particular design, but just the way that it would look.

You have one set of cells and supporting structures here. You have day rooms which might be assembled in place. This is a relatively maximum security type of operation in this case rather than a dormitory space, what have you.

It is possible to construct dormitory space. It is really of no consequence because the facility provides greater security and greater structural integrity rather than general construction. Nothing is lost using this system.

Here you see the way in which the individual containers are mounted. They are mounted on prefabricated reinforced concrete pillars which have steel plates and steel rods through them All of this is built offsite; and then it is brought to the site which allows you to construct this prison in any type of weather conditions.

This is totally independent of weather. It dosen't require the type of sequential construction that conventional construction requires. Many parts of this thing are worked on simultaneously inciuding the electrical, the plumbing, because it all hooked together; it is hocked together the way that a plug fits into a socket. In other words, you just have a finished operation.

Here is a small cutaway which is kind of blurry which shows the structure of the wall. It shows different levels of fireproofing and insulation and stainless steel construction, corrugated steel, which really gives it a higher "R" factor for more insulation than conventional construction that would be available at a minimum, medium, or maximum security system. That is our slide.

Mr. WISE. The containment that he speaks about is the standard type that are loaded on the docks of containerships. It can be stacked eight high. They are a standard size.

At the present time I guess they are in oversupply. They are very expensive.

Senator D'AMATO. What do you anticipate the cost per cell using this method?

Mr. ERROLL. The cost per cell, it depends on the type of facility that you have designed. What we are saying is that we can genuinely produce it at least at a 30-percent savings, that is, without a doubt at a 30-percent savings according to every calculation that we have come up with and that includes everything, the turnkey operation, general construction.

Senator D'AMATO. You mentioned Riker's Island. I would imagine that you have had an opportunity to visit with the city prison officials?

Mr. ERROLL. Yes.

Senator D'AMATO. Have you made a proposal with respect to any of the additions being undertaken at Riker's Island?

Mr. ERROLL. Well, they have come out to look at our system. I will tell you what happened. They have come out to look at our system.

Selling this kind of a system to a municipality is a rather difficult thing because it is a new idea. There are a lot of people who find this idea more difficult to accept.

Senator D'AMATO. Well, there is a certain amount of reprehensibility, to be quite candid with you. This is one Senator who has not ever been accused of being more conscious of the rights of prisoners than would be required. As a matter of fact, maybe I have been accused of not being quite conscious enough.

However, I have to suggest to you that when you put it in the form of containers, you know——

Mr. ERROLL. Well, the U.S. Navy deploys this system in their rapid deployment system. The Armed Forces have lived in these kind of structures on a day-to-day basis around the world.

Senator D'AMATO. Well, maybe you should not describe it as containers. Maybe you should use a different method to describe it. What is one man's container might be a very secure, adequate comfortable facility for internment—I have to be very careful and not talk about interment now—or jail space as opposed to putting it forth in that manner. I would suggest to you that the terminology might make it easier for you to find acceptability when you meet people, even the hardened wardens, et cetera.

What about the quality of life? Would you face a situation where people would say that this stainless steel may present a problem or a danger, a health problem?

Mr. FERRO. No; it does not. The stainless steel that you use is the same grade stainless steel that you use for utensils except it is a work-hardened stainless steel. In other words, the more you scratch it, the harder it gets.

It is also covered with a nontoxic epoxy which is a graffiti-free epoxy on all of these walls.

Senator D'AMATO. Have any of these been introduced anyplace in the country or any other areas of the world that you are aware of?

Mr. ERROLL. No; this is a method that we have developed over the last couple of years. We have spent quite a number of years actually refining the whole method of design production.

We are in negotiations with Suffolk County right now. This is a very different thing because this type of thing to be most meaningfully done needs to be employed at a design phase, as Mr. Silver pointed out, and that the maximum efficiency of any kind of a system like this needs to start there.

We have talked to them, but there seems to be some serious misunderstanding of what our system is capable of. We are trying to reeducate them about what our capacities are. That is not a very easy proposition.

Senator D'AMATO. Now, in terms of capacity, how many could you produce in a period of time?

Mr. FERRO. I will give you an example. This is a Suffolk County example. They have some examples of conventional construction taking 3 years for 300 beds and support systems.

Just to coin a phrase. This is a turnkey operation. We would be able to give them the key in approximately 12 months.

Senator D'AMATO. You believe that you can do the total facility in 12 months?

Mr. FERRO. Yes.

Mr. ERROLL. Once an operation like this is set up, we then develop an industry in New York State, an industry which means jobs. The learning curve that you have instituted into the production line lowers both the cost and increases the speed of construction of these things if we manage to sell further units throughout the United States.

Senator D'AMATO. Mr. Wise, I am wondering if you might be able to comment with respect to the maintenance aspect of this facility?

Mr. WISE. I was the one that brought up the containers. I understand the implications. The container, of course, is completely covered on the inside and outside.

On the inside we are talking about stainless steel which has welded joints. It is one piece within the cell. There are no curvatures or cracks where you have accumulation of dirt or possibility of bugs, vermin, that type of thing. It is very easy to maintain.

Senator D'AMATO. It would be easier than your traditional construction at the present time?

Mr. WISE. Any masonry material is porous. Anyone that's been in an old prison knows what happens to porous masonry. You get an odor after a while.

There is no way that you clean it. It is much more sanitary to service. It is much more sanitary to service it.

As Mr. Silver pointed out, there is no such thing as a temporary building. You are aware of the temporary classrooms they had in Long Island, hundreds and thousands of them still in use. They were cheap buildings.

This is not a cheap building. There are no substitute materials. It is good stainless steel, a good finish. On the outside cement stucco. It should be very easy to maintain.

The cost savings should be in the 30-percent range. What we are actually doing is increasing the element of prefabrication to almost its *n*th degree in this building.

Every building material that we use now is partially prefabricated. There is some site work on it. This is just carrying prefabrica-

tion that much further. It is much cheaper to assemble the unit in a shop under controlled conditions.

The difference in labor cost is tremendous. The difference is in coordination.

Because of this crazy business that we have in New York State and even worse in New Jersey, you have four contractors mandated. Generally a poor architect like me is supposed to juggle them around.

The commissioner was talking about a single person to deal with, a single person that can take the heat when there is heat. That you can do with private industry applying a product like this. You can almost get 80 to 90 percent prefabrication of the building elements.

Senator D'AMATO. Do you have any other areas in which you are exploring construction of these facilities other than Suffolk County?

Mr. FERRO. Well, emergency housing for the homeless and other emergency type housing in New York.

Mr. ERROLL. We have begun discussions with Nassau County. I think that the sheriff there had a heart attack a while ago and that has slowed things down.

Mr. WISE. One of the problems that we have in the public law that was not mentioned by Mr. Silver, the fact that we have a proprietory item. In New York State as in many adjoining States, we must have other products that can substitute for this. There is no such thing as another product. If someone else can manufacture one, we can manufacture one.

We have discussed here previously in this hearing problems of public construction as opposed to private construction. That is another one that relates to this particular product. There is a substantial savings to be made in dollars and in time.

Of course, this privatization that you are interested in at the present time, I think that the real answer is the buck. There is a profit motive in building a public building. The private builder is going to go after that.

Now, the public agency that builds the public building through the usual procedure, no one makes a dollar then.

Senator D'AMATO. We have heard about some practices that Mr. Coughlin and Mr. Silver talked about with respect to delays, et cetera, with everyone pointing their finger at each other and the taxpayer picking up the bill.

Mr. ERROLL. Yes; but in private construction you don't have that, Senator.

Senator D'AMATO. I appreciate you coming forward and taking your time out to appear here at this hearing. I applaud you in your efforts. And, certainly while I am not in a position to endorse any particular system or mode, I do believe that given the extreme situation that many of our facilities find themselves in, in terms of being overburdened, and with the high cost to the taxpayers, that all approaches, no matter how unique, and yours is certainly one that has a certain uniqueness to it, should be approached particularly as it would make available facilities within a period of 1 year that otherwise might take as many as 3 years to construct it.

We are going to continue to hold hearings on this prison bill not only in Washington and this State, but in other States, too, in an

attempt to get additional support from the public and the private sectors. I think that is something whose time has come.

The Federal Government has a responsibility in this area given the fact that so much crime is drug related, and most of those drugs come from outside of this country. We do have a responsibility to share this burden with the States and local governments.

I thank you for giving us your time. This committee stands adjourned.

[Whereupon, the committee adjourned, subject to the call of the Chair.]

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